

REMARKS

The application includes claims 1-20 prior to entering this amendment.

The application remains with claims 1-20 after entering this amendment.

The applicants do not add new matter and request reconsideration.

Claim Rejections - 35 U.S.C. § 103

The examiner rejected claims 1, 2, 10-12, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Weiss in view of Sylvain.

The rejection is respectfully traversed. Neither Weiss or Sylvain teach sending or receiving no-op packets over a media path during and within an initial media call signaling session prior to establishing the media call and setting up the media path. For example, Sylvain explains that while the “stay-alive” packets can be identified during the connection setup, the stay-alive packets are not actually sent and received until after the media path A is already established (col. 8, lines 27-32 and col. 8, line 42- col. 9, lines 5; FIG. 7).

According, the combination of Weiss and Sylvain teach away *from sending and/or receiving one or more no-op media payload packets over the media path during and within the initial media call signaling session prior to establishing the media call* as recited in claim 1.

The examiner rejected claims 3, 4, 13, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Weiss in view of Sylvain, as applied to claim 1 above, and further in view of FitzGerald.

The examiner rejected claims 5-9 and 15 under 35 U.S.C. § 103(a) as being unpatentable over Weiss in view of Sylvain and FitzGerald as applied to claim 3 above, and further in view of Teruhi.

The examiner rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable over Weiss in view of Sylvain and Teruhi as applied to claim 16 above, and further in view of Kressin.

The examiner rejected claims 18 and 19 under 35 U.S.C. § 103(a) as being unpatentable over FitzGerald in view of Sylvain and further in view of Teruhi.

The examiner rejected claim 20 under 35 U.S.C. § 103(a) as being unpatentable over FitzGerald in view of Sylvain and Teruhi as applied to claim 19 above, and further in view of Chu.

As set out in the STATEMENT OF COMMON OWNERSHIP above, the Fitzgerald patent and the instant application are both owned by the same owner at the time this invention was made. This disqualifies Fitzgerald as a reference under 35 U.S.C. 103(a). See MPEP 706.02(1)(1)-(3) and § 103(c).

Here the present application was filed on Nov. 26, 2003, which is after the November 29, 1999 eligibility date. Accordingly the present application is eligible for the provisions of 35 U.S.C. § 103c, the rejections of claims 3-9, 13, 15-20 should be withdrawn, and claims 3-9, 13, 15-20 be allowed to issue.

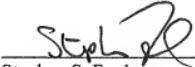
CONCLUSION

For the foregoing reasons, the applicants request reconsideration and allowance of claims 1-20. The applicants encourage the examiner to telephone the undersigned if it appears that an interview would be helpful in advancing the case.

Customer No. 73552

Respectfully submitted,

STOLOWITZ FORD COWGER LLP



Stephen S. Ford
Reg. No. 35,139

STOLOWITZ FORD COWGER LLP
621 SW Morrison Street, Suite 600
Portland, OR 97205
(503) 224-2170